

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF HENDERSON UNION	)	
ELECTRIC COOPERATIVE CORPORATION	)	CASE NO.
FOR A DECREASE IN EXISTING RATES	)	97-220
AND FOR APPROVAL OF CONTRACTS	)	

O R D E R

On July 25, 1997, Henderson Union Electric Cooperative Corporation ("Henderson Union") applied for approval of interim and permanent tariffs which reflect proposed reductions in the rates of its wholesale supplier Big Rivers Electric Corporation ("Big Rivers"). Henderson Union also requested approval of changes in its Wholesale Power Contract with Big Rivers and in its retail electric service agreement with Alcan Aluminum Corporation ("Alcan").

Henderson Union proposed interim rates that would become effective on September 1, 1997 and remain in effect until August 31, 1998 or the closing of the Big Rivers' First Amended Plan of Reorganization ("Reorganization Plan"), whichever occurs first. Finding that its statutory authority to review rate applications is limited by KRS 278.190(3) to 10 months, the Commission on August 29, 1997, suspended Henderson Union's proposed rates for one day, to be effective, subject to change, with service rendered on and after September 2, 1997 and ordered that the interim rates remain in effect only until issuance of a final rate order determining the reasonableness of the proposed permanent rates.

The Commission received requests for and granted intervention to Alcan and the Attorney General of the Commonwealth of Kentucky ("AG"). A public hearing was held in this matter on March 3, 1998.

This case is closely related to the proceedings in Case No. 97-204<sup>1</sup> in which Big Rivers applied for, inter alia, Commission approval of interim and permanent rates for its distribution cooperatives and of numerous agreements to implement the Reorganization Plan approved by the U.S. Bankruptcy Court in Big Rivers' Chapter 11 proceeding. Henderson Union's proposed Wholesale Power Contract with Big Rivers and its retail electric service agreement with Alcan are a significant part of the Reorganization Plan and have been extensively examined by the Commission in Case No. 97-204. Furthermore, the Commission has closely examined in that proceeding the proposals for post-2000 Tier 3 Service and for Market Power Purchases as they relate to Big Rivers and its distribution cooperatives. All parties to this proceeding are parties to and actively participated in Case No. 97-204.

As the Commission has in its Order of April 30, 1998 in Case No. 97-204 extensively addressed the issues of Henderson Union's wholesale contract, the retail service agreement with Alcan, the post-2000 Tier 3 Service proposal and the Market Power Purchase proposals, the Commission finds no need to plow the same ground twice. The Commission therefore adopts and incorporates by reference its findings and conclusions

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<sup>1</sup> Case No. 97-204, The Application of Big Rivers Electric Corporation, Louisville Gas and Electric Company, Western Kentucky Energy Corp., Western Kentucky Leasing Corp., and LG&E Station Two Inc. for Approval of Wholesale Rate Adjustment for Big Rivers Electric Corporation and For Approval of Transaction (filed June 30, 1997).

regarding those issues which are contained in that Order.<sup>2</sup> The scope of this Order will be limited to those issues raised by Henderson Union's Application and not specifically addressed in Case No. 97-204.

#### REVENUE REQUIREMENTS AND RATE DESIGN

Henderson Union proposed to adjust its rates to reduce its revenues by \$17,656,854. It proposed to reduce the rates of smelter and direct serve customers by \$15,805,500 and to reduce rural system customers' rates by \$1,851,354. Its proposal would allocate approximately \$488,201 of purchase power cost savings from rural system customers to direct served customers. Henderson Union further proposed to increase the monthly customer charge of \$6.45 assessed to its residential customers to \$7.91 and to create a declining block energy rate. At the hearing on the proposed rates, Henderson Union agreed to modify its proposed rate design for residential customers and return to a flat energy charge for its Schedule A customers. In return for this modification, the AG dropped his opposition to the proposed allocation of purchase power cost savings from rural system customers to direct served customers. The AG has not contested Henderson Union's proposed revenue requirements resulting from the reduction in purchase power costs.

#### ROTATION OF CAPITAL CREDITS

The AG argues that the Commission should require Henderson Union to use all annual earnings over a Times Interest Earned Ratio ("TIER") of 2.0 to rotate capital credits to its members. He argues that the Commission should encourage capital credits to be

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<sup>2</sup> The record of Case No. 97-204 has already been incorporated by reference into the record of this proceeding. See Transcript at 8.

rotated since no dividends or interest is paid on capital credits and rotation ensures that older members of the cooperative receive a return of their contributions and that newer members pay their share of the cooperative's capital needs. He notes that Henderson Union has not rotated its capital credits since 1979. Finally, the AG argues that Henderson Union has an excessive equity ratio. While it has a capital ratio target of 40 percent, its present equity ratio is 63.7 percent.

In response, Henderson Union contends that this case is not the appropriate proceeding to mandate the rotation of capital credits. It contends that such requirements should only be imposed after a full investigation in a general rate case, not a limited proceeding to review the flow through of a rate reduction. Henderson Union further argues that a mandatory rotation would result in administrative problems and require major revisions to the cooperative's bylaws. It also suggested that such rotation might threaten the financial integrity of the cooperative.

The Commission agrees with the principle that all rural electric cooperatives should adopt capital management policies that promote the rotation of patronage capital credits. However, we find that this flow through case lacks sufficient financial information to support the imposition of such a rotation upon a nonconsenting utility. Assuming arguendo that the Commission has the legal authority to direct the adoption of such plan, the Commission is of the opinion that the imposition of such a plan should occur only after a general rate case in which all areas of utility operation, including the utility's capital management plan, have been fully explored. The Commission finds that, given the limited scope of review in this case, the AG's proposal should be denied.

IT IS THEREFORE ORDERED that:

1. As they relate to the issues of Henderson Union's wholesale contract with Big Rivers, Henderson Union's retail service agreement with Alcan, its post-2000 Tier 3 Service and the Market Power Purchase proposals, the findings and conclusions set forth in the Commission's Order of April 30, 1998 in Case No. 97-204 are adopted and incorporated into this Order as if fully set forth herein.

2. The market power provision in the Smelter Tier 3 rate and the Market Power Purchase option for certain Large Industrial Customers are hereby denied and the termination date on the Tier 3 fixed rate is rejected.

3. Those provisions in Henderson Union's retail service agreement with Alcan and its proposed tariff that exempt Alcan from paying any stranded costs or exit fees related to Henderson Union are rejected.

4. Those provisions in Henderson Union's retail service agreement with Alcan and in its proposed tariff that prohibit rate adjustments to reflect costs or payments incurred by Henderson Union for expenditures due to legislation, regulatory, or legal action are rejected.

5. Henderson Union's retail service agreement with Alcan, as filed with the Commission on February 27, 1998, is approved in principle, subject to the revisions discussed in this Order and subject to the review of the final version of the contracts.

6. The proposed rates for "Schedule A - Residential," as amended by Henderson Union and agreed to by the AG, are approved.

7. The proposed rates for "Schedule LI-1-Large Industrial" are denied.

8. The proposed rates for "Schedule LP-4-Dedicated Delivery Point or 2,001 kW and Above" are modified to reflect the changes resulting from the Commission's rejection of the Market Power Purchase Option in Case No. 97-204.

9. All proposed permanent rates set forth in Henderson Union's application and not modified or rejected herein are approved.

10. The rates set forth in Appendix A are approved for service rendered on and after April 30, 1998.

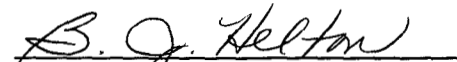
11. The Wholesale Power Contract between Big Rivers and Henderson Union is approved in principle, subject to the revisions discussed in the Commission's Order of April 30, 1998 in Case No. 97-204 and subject to the review of the final version of that contract.


12. Within 30 days of the date of this Order, Henderson Union shall file its revised tariffs, reflecting all revisions and modifications as required by this Order.

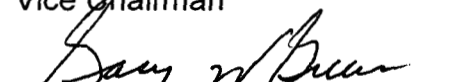
13. Henderson Union shall file, in a new case, the final executed draft of its retail service agreement with Alcan and its Wholesale Power Contract with Big Rivers supported by a clear identification of each change made and a detailed explanation of each change to the versions on file with the Commission as of February 27, 1998.

Done at Frankfort, Kentucky, this 6th day of May, 1998.


PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director

## APPENDIX A

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 97-220 DATED MAY 6, 1998

The following rates and charges are prescribed for the customers in the area served by Henderson Union Electric Cooperative Corporation. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of this Commission prior to the effective date of this Order.

#### SCHEDULE A RESIDENTIAL

##### Monthly Rate:

Customer Charge	\$7.91
Energy Charge per KWH	.0569440

#### SCHEDULE B FARM, GOVERNMENT OR COMMERCIAL

##### Monthly Rate:

Customer Charge Single Phase	\$11.50
Customer Charge Three-Phase	18.00
Energy Charge Per KWH	.0596500

#### SCHEDULE B-1 FARM OR COMMERCIAL

##### Monthly Rate:

Customer Charge per Delivery Point	\$25.00
Demand Charge per KW	3.50
Energy Charge	
First 200 KWH/KW of Billing Demand	.0538000
Next 200 KWH/KW of Billing Demand	.0462000
Over 400 KWH/KW of Billing Demand	.0392000

SCHEDULE B-2  
GRAIN DRYING SERVICE

Monthly Rate:

Customer Charge per Delivery Point	\$18.00
Energy Charge per KWH	.0718000

SCHEDULE LP-3  
(501 TO 2000) KVA  
NON-DEDICATED DELIVERY POINTS

Monthly Rate:

Customer Charge per Delivery Point	\$100.00
Demand Charge	
First 500 KW of Billing Demand, per KW	8.75
Over 500 KW of Billing Demand, per KW	7.80
Energy Charge	
First 200 KWH/KW of Billing Demand	.0310000
Next 200 KWH/KW of Billing Demand	.0255000
Over 400 KWH/KW of Billing Demand	.0230000

SCHEDULE LP-3 OFF PEAK RATE RIDER  
LARGE POWER  
NON-DEDICATED DELIVERY POINTS

Monthly Rate:

Customer Charge per Delivery Point	\$100.00
Demand Charge	
First 500 KW of Billing Demand, per KW	8.75
Over 500 KW of Billing Demand, per KW	7.80
Energy Charge	
First 200 KWH/KW of Billing Demand	.0310000
Next 200 KWH/KW of Billing Demand	.0255000
Over 400 KWH/KW of Billing Demand	.0230000



SCHEDULE LP-4  
DEDICATED DELIVERY POINT

Monthly Rate:

Customer Charge per Delivery Point	\$100.00
Demand Charge per KW of Billing Demand	10.15
Energy Charges	
First 5,000 MWH per Month	.0182750
All over 5,000 MWH per Month	.0167750

SMELTER

Monthly Rate:

Tier 1

Energy Rate per KWH	\$0.0312
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Tier 2

Energy Rate per KWH for:	
Effective Date through December 31, 2000	\$0.02148
January 1, 2001 through December 31, 2001	\$0.02169
January 1, 2002 through December 31, 2002	\$0.02179
January 1, 2003 through December 31, 2003	\$0.02229
January 1, 2004 through December 31, 2004	\$0.02240
January 1, 2005 through December 31, 2005	\$0.02251
January 1, 2006 through December 31, 2006	\$0.02273
January 1, 2007 through December 31, 2007	\$0.02312
January 1, 2008 through December 31, 2008	\$0.02344
January 1, 2009 through December 31, 2009	\$0.02377
January 1, 2010 through December 31, 2010	\$0.02410
January 1, 2011 through December 31, 2011	\$0.02341

Tier 3

Energy Rate per KWH	\$0.01958
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Transmission Rate	Transmission Provider's Open Access Tariff Charge
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Each kilowatt hour purchased by Alcan Aluminum Company shall also be subject to a fee of one-tenth of a mill (\$0.0001), payable monthly, as part of the Monthly Charge, provided that, after December 31, 2000, the fee shall be subject to change by order of the Commission upon application of Alcan Aluminum Company or Henderson Union.

SCHEDULE SL  
STREET LIGHTS

Monthly Rate:

Sodium or Mercury Vapor Lamp	
8,000 Lumen	\$4.30
20,000 Lumen	8.10

SCHEDULE D  
SECURITY LAMP

Monthly Rate:

Sodium or Mercury Vapor Lamp	
8,000 Lumen	\$6.95
20,000 Lumen	10.00